

House File 607 - Introduced

HOUSE FILE 607

BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HSB 162)

A BILL FOR

1 An Act relating to the state government, by providing for
2 the transfer of powers and duties from the agricultural
3 development authority to the Iowa finance authority,
4 the composition of the Iowa finance authority board of
5 directors, the administration of programs by the board, the
6 implementation of law by the board, and including effective
7 date provisions.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

GENERAL PROVISIONS

Section 1. Section 16.1, subsection 1, Code 2013, is amended by adding the following new paragraphs:

NEW PARAGRAPH. *0c.* "Board" means the Iowa finance authority board of directors created pursuant to section 16.2.

NEW PARAGRAPH. *0j.* "Executive director" means the executive director of the Iowa finance authority as appointed pursuant to section 16.6.

Sec. 2. NEW SECTION. 16.1A Creation — administration of programs.

1. The Iowa finance authority is created, and constitutes a public instrumentality and agency of the state exercising public and essential governmental functions.

2. The authority shall undertake and administer the following:

a. Programs established under this chapter to assist in attainment of adequate housing for low-or moderate-income families, elderly families, and families which include one or more persons with disabilities, and to undertake the various finance programs under this chapter.

b. Programs which assist qualified farmers or agricultural producers, including beginning farmers, as provided in chapter 175.

3. The Iowa finance authority board of directors shall have general control, supervision, and regulation of all authority programs established under this chapter and chapter 175. The authority is charged with the broad administrative authority to make, administer, interpret, construe, repeal, and execute the rules, and to administer, interpret, construe, and execute the laws of this state relating to such programs. The board may, by resolution, delegate to the executive director or other authority employee such of its powers, under such terms and conditions, as it deems appropriate.

4. At least two of the authority's full-time equivalent

1 positions, as defined in section 8.36A, shall be entirely
2 dedicated to administering programs established pursuant to
3 chapter 175. One of those full-time equivalent positions
4 shall be dedicated to overseeing the administration of those
5 programs, and to the extent that the programs are affected, the
6 full-time equivalent position shall be provided the powers and
7 duties necessary to do all of the following:

- 8 a. Participate in making managerial decisions.
- 9 b. Provide for outreach and promotion.
- 10 c. Improve delivery of services.
- 11 d. Participate in any rulemaking.
- 12 e. Represent the authority when communicating with members
13 of the general assembly.

14 5. A program established in this chapter may be combined
15 with any other program authorized in this chapter, under
16 chapter 175, or under a federal program, in order to
17 facilitate, as far as practical, the types of assistance
18 provided to persons described in section 175.3.

19 Sec. 3. Section 16.2, subsection 1, Code 2013, is amended
20 to read as follows:

21 1. ~~The Iowa finance authority is established, and~~
22 ~~constituted a public instrumentality and agency of the state~~
23 ~~exercising public and essential governmental functions, to~~
24 ~~undertake programs which assist in attainment of adequate~~
25 ~~housing for low or moderate income families, elderly~~
26 ~~families, and families which include one or more persons with~~
27 ~~disabilities, and to undertake the various finance programs.~~
28 The powers of the authority are vested in and shall be
29 exercised by a an Iowa finance authority board of directors.
30 The board shall be composed of nine members appointed by the
31 governor subject to confirmation by the senate.

32 a. ~~No~~ Not more than five members shall belong to the same
33 political party.

34 b. As far as possible, the governor shall include within
35 the membership persons who represent community and housing

1 development industries, housing finance industries, the real
2 estate sales industry, elderly families, minorities, lower
3 income families, very low income families, families which
4 include persons with disabilities, average taxpayers, local
5 government, business interests, and any other person specially
6 interested in community housing, finance, or small business.

7 c. At least two members shall be individuals who have
8 been associated with a financial institution and who have had
9 substantial experience in making loans to beginning farmers or
10 agricultural producers as defined in section 175.2.

11 Sec. 4. Section 16.103, subsection 1, Code 2013, is amended
12 to read as follows:

13 1. Make secured and unsecured loans for both the acquisition
14 and the construction of projects on terms the authority
15 determines. ~~Any loan made with respect to any project for~~
16 ~~which a loan may be made pursuant to chapter 175 shall be made~~
17 ~~only upon the request and with the consent of the agricultural~~
18 ~~development authority. The loans~~ A loan may be made to any
19 person or entity including, but not limited to, a city, a or
20 county, ~~and the agricultural development authority for projects~~
21 a project approved by the Iowa finance authority. The Iowa
22 finance authority may take any action which is reasonable and
23 lawful to protect its security and to avoid losses from its
24 loans.

25 Sec. 5. Section 175.2, subsection 1, paragraph e, Code 2013,
26 is amended to read as follows:

27 e. "Authority" means the agricultural development Iowa
28 finance authority established created in section 175.3 16.1A.

29 Sec. 6. Section 175.2, subsection 1, Code 2013, is amended
30 by adding the following new paragraphs:

31 NEW PARAGRAPH. Oh. "Board" means the Iowa finance authority
32 board of directors created pursuant to section 16.2.

33 NEW PARAGRAPH. Ok. "Executive director" means the executive
34 director of the Iowa finance authority appointed pursuant to
35 section 16.6.

1 Sec. 7. Section 175.3, Code 2013, is amended by striking the
2 section and inserting in lieu thereof the following:

3 **175.3 Authority — administration of this chapter.**

4 1. The authority shall administer this chapter in addition
5 to its administration of chapter 16.

6 2. In administering this chapter, the authority shall
7 provide assistance to persons qualifying as beginning farmers,
8 agricultural producers, or displaced farmers as provided in
9 this chapter. The authority shall, to every extent practical,
10 assist such persons to do all of the following:

11 a. Acquire agricultural land, agricultural improvements,
12 or depreciable agricultural property, including as provided in
13 section 175.12 or 175.33.

14 b. Implement the installation of permanent soil and water
15 conservation practices and the acquisition of conservation
16 farm equipment for agricultural land, including as provided in
17 section 175.34.

18 c. Obtain affordable operating capital, including as
19 provided by section 175.35.

20 d. Begin or expand beef cattle operations, including as
21 provided in section 175.36.

22 e. Obtain agricultural assets transfer tax credits,
23 including by issuing tax credit certificates pursuant to
24 section 175.37.

25 3. The authority shall also develop programs to assist
26 qualified agricultural producers within the state with
27 financing other capital requirements or operating expenses.

28 4. A program established in this chapter may be combined
29 with any other program established in this chapter, chapter
30 16, or a federal program, in order to facilitate, as far as
31 practical, the types of assistance described in this section.

32 5. The board shall have general control, supervision,
33 and regulation of all authority programs established under
34 this chapter in the same manner as provided for in chapter 16
35 pursuant to section 16.1A.

1 Sec. 8. Section 175.4, subsection 11, Code 2013, is amended
2 to read as follows:

3 11. It is necessary to create an ~~agricultural development~~
4 authority to encourage ownership of farms by beginning farmers
5 by providing purchase money loans to beginning farmers who are
6 not able to obtain adequate capital elsewhere to provide such
7 funds and to lower costs through the use of public financing.

8 Sec. 9. Section 175.5, unnumbered paragraph 1, Code 2013,
9 is amended to read as follows:

10 In the performance of its duties, implementation of its
11 powers, selection of specific programs and projects to receive
12 its assistance as provided in section 175.3, the authority
13 shall be guided by the following principles:

14 Sec. 10. Section 175.6, unnumbered paragraph 1, Code 2013,
15 is amended to read as follows:

16 The authority has all of the general powers needed to carry
17 out its purposes and duties, and to exercise its specific
18 powers, under this chapter including but not limited to the
19 power to do any of the following:

20 Sec. 11. Section 175.8, subsection 1, unnumbered paragraph
21 1, Code 2013, is amended to read as follows:

22 ~~The authority shall submit to the governor and to the members~~
23 ~~of the general assembly as request it, not later than January~~
24 ~~15 of each year, a complete and economically designed and~~
25 ~~reproduced~~ As part of the authority's report setting forth:
26 required in section 16.7, the authority shall detail its
27 activities under this chapter, which shall include all of the
28 following:

29 Sec. 12. Section 175.8, subsections 3 and 4, Code 2013, are
30 amended to read as follows:

31 ~~3. For fiscal years beginning on or after July 1, 2007,~~
32 ~~the auditor of state shall conduct an annual audit of the~~
33 ~~agricultural development authority to be paid from resources~~
34 ~~of the authority notwithstanding any other audit conducted on~~
35 ~~behalf of the authority's board of directors. The auditor of~~

1 ~~state may acquire the services of an outside audit firm, if~~
2 ~~necessary, to conduct the audit as required in this subsection.~~

3 4. 3. The authority's executive director, ~~appointed~~
4 ~~pursuant to section 175.7,~~ shall report semiannually to the
5 general assembly's standing committees on government oversight
6 regarding the operations of the authority.

7 Sec. 13. Section 175.26, Code 2013, is amended by striking
8 the section and inserting in lieu thereof the following:

9 **175.26 Conflicts of interest.**

10 The requirements and procedures for conflicts of interest
11 by a member or employee of the authority set forth in section
12 16.3A shall also apply to this chapter.

13 Sec. 14. REPEAL. Sections 175.7 and 175.11, Code 2013, are
14 repealed.

15 Sec. 15. EFFECTIVE DATE. This division of this Act takes
16 effect on July 1, 2013.

17 DIVISION II

18 COORDINATING PROVISIONS

19 Sec. 16. Section 7C.4A, subsection 4, Code 2013, is amended
20 to read as follows:

21 4. Twenty-one percent of the state ceiling shall be
22 allocated to qualified small issue bonds issued for first-time
23 farmers under chapter 175. However, at any time during the
24 calendar year the governor's designee, with the approval of the
25 Iowa ~~agricultural development~~ finance authority, may determine
26 that a lesser amount need be allocated to qualified small issue
27 bonds for first-time farmers and on that date this lesser
28 amount shall be the amount allocated for those bonds and the
29 excess shall be allocated under subsection 7.

30 Sec. 17. Section 12.28, subsection 1, paragraph b, Code
31 2013, is amended to read as follows:

32 b. "State agency" means a board, commission, bureau,
33 division, office, department, or branch of state government.
34 However, state agency does not mean the state board of regents,
35 institutions governed by the board of regents, or authorities

1 created under chapter 16, ~~175,~~ 257C, or 261A.

2 Sec. 18. Section 12.30, subsection 1, paragraph a, Code
3 2013, is amended to read as follows:

4 a. "Authority" means a department, or public or quasi-public
5 instrumentality of the state including but not limited to the
6 authority created under chapter 12E, 16, ~~175,~~ 257C, 261A, or
7 463C, which has the power to issue obligations, except that
8 "authority" does not include the state board of regents or
9 the Iowa finance authority to the extent it acts pursuant to
10 chapter 260C. "Authority" also includes a port authority created
11 under chapter 28J.

12 Sec. 19. Section 16.1, subsection 1, paragraph b, Code 2013,
13 is amended to read as follows:

14 b. "Authority" means the Iowa finance authority ~~established~~
15 created in section ~~16.2~~ 16.1A.

16 Sec. 20. Section 159.18, subsection 1, Code 2013, is amended
17 to read as follows:

18 1. As used in this section, "farm programs" includes, but
19 is not limited to, financial incentive programs established
20 within the division of soil conservation of the department of
21 agriculture and land stewardship as provided in section 161A.70
22 and the beginning farmer loan program administered by the
23 ~~agricultural development~~ Iowa finance authority as provided in
24 section 175.12.

25 Sec. 21. Section 422.7, subsection 19, Code 2013, is amended
26 to read as follows:

27 19. Subtract interest earned on bonds and notes issued by
28 the ~~agricultural development~~ Iowa finance authority as provided
29 in section 175.17, subsection 10.

30 Sec. 22. Section 422.35, subsection 13, Code 2013, is
31 amended to read as follows:

32 13. Subtract the interest earned from bonds and notes issued
33 by the ~~agricultural development~~ Iowa finance authority as
34 provided in section 175.17, subsection 10.

35 Sec. 23. Section 455B.291, subsection 2, Code 2013, is

1 amended to read as follows:

2 2. "*Authority*" means the Iowa finance authority ~~established~~
3 created in section ~~16.2~~ 16.1A.

4 Sec. 24. Section 502.201, subsection 9B, Code 2013, is
5 amended to read as follows:

6 9B. ~~Agricultural development~~ Iowa finance authority. Any
7 security issued by the ~~agricultural development~~ Iowa finance
8 authority under chapter 175.

9 Sec. 25. EFFECTIVE DATE. This division of this Act takes
10 effect on July 1, 2013.

11 DIVISION III

12 TRANSITIONAL PROVISIONS — GENERAL

13 Sec. 26. ADMINISTRATIVE RULES AND OTHER ACTIONS AND
14 DOCUMENTS. Any rule, regulation, form, order, or directive
15 promulgated by agricultural development authority under the
16 umbrella of the department of agriculture and land stewardship
17 pursuant to section 175.3, Code 2013, as required to administer
18 and enforce the provisions of chapter 175 shall continue in
19 full force and effect until amended, repealed, or supplemented
20 by affirmative action of the Iowa finance authority.

21 Sec. 27. PENDING ADMINISTRATIVE OR JUDICIAL PROCEEDINGS.

22 1. An administrative or judicial proceeding arising under
23 chapter 175 pending on the effective date of this division of
24 this Act shall not be affected due to this Act.

25 2. Any cause of action or statute of limitation relating to
26 an action taken by a party in a matter arising under chapter
27 175 shall not be affected by this Act, except that the Iowa
28 finance authority shall replace the agricultural development
29 authority as a party.

30 3. The department of agriculture and land stewardship
31 or the office of attorney general acting on behalf of the
32 agricultural development authority in an administrative or
33 judicial proceeding shall not be affected as result of this
34 Act. Any statute of limitation shall apply to the parties as if
35 this Act had not been enacted.

1 Sec. 28. PERSONNEL. Any personnel in the state merit system
2 of employment who are transferred due to the effect of this Act
3 shall be so transferred without any loss in salary, benefits,
4 or accrued years of service.

5 Sec. 29. REPLACEMENT ITEMS. Any replacement of signs,
6 logos, stationery, insignia, uniforms, and related items that
7 are made due to the effect of this Act shall be done as part of
8 the normal replacement cycle for such items.

9 Sec. 30. IOWA FINANCE AUTHORITY BOARD OF DIRECTORS. Nothing
10 in this Act requires that a member serving on the Iowa finance
11 authority board of directors serve for less than a term of
12 office specified in section 16.2. However, two directors whose
13 terms end after the effective date of this division of this Act
14 shall be replaced by two individuals who are engaged in actual
15 farming operations as required in section 16.2, as amended by
16 this Act.

17 Sec. 31. OUTSTANDING LEGAL OBLIGATIONS AND RIGHTS. Any
18 interest in real property, tangible personal property,
19 or intangible personal property held by the agricultural
20 development authority shall be transferred to the Iowa finance
21 authority. Any property right, security interest, or lien
22 held by the agricultural development authority shall vest in
23 the Iowa finance authority without an instrument of transfer
24 including but not limited to a deed, contract, or endorsement.
25 However, nothing in this section prohibits the execution of
26 such instrument if the Iowa finance authority determines it
27 is necessary or prudent. Any debt, obligation, or liability
28 incurred by the agricultural development authority shall be
29 assumed by the Iowa finance authority, and shall continue
30 according to the same terms and conditions as applied to the
31 agricultural development authority. Any right or benefit
32 arising from a legal instrument in which the agricultural
33 development authority was a party shall be transferred to the
34 Iowa finance authority and shall continue as if the transfer
35 had not occurred.

1 Sec. 32. ADMINISTRATION OF ONGOING PROGRAMS. The Iowa
2 finance authority shall complete the administration of ongoing
3 programs of the agricultural development authority as provided
4 in chapter 175, to the extent that the administration of
5 those programs are in progress on the effective date of this
6 Act. The Iowa finance authority shall assume all rights
7 and obligations of the agricultural development authority
8 to the extent that moneys have been committed, obligations
9 incurred, or rights accrued prior to the effective date of
10 this Act. Moneys owing due to the rights and obligations of
11 the agricultural development authority and assumed by the Iowa
12 finance authority shall be paid as directed by the Iowa finance
13 authority.

14 Sec. 33. IOWA RURAL REHABILITATION CORPORATION.

15 1. The assets and liabilities of the former Iowa rural
16 rehabilitation corporation assumed by the agricultural
17 development authority pursuant to section 175.28 shall be
18 transferred to the Iowa finance authority on the effective
19 date of this Act. On such effective date, the Iowa finance
20 authority shall be the successor in interest to the agreements
21 in effect between the United States government and the
22 agricultural development authority on behalf of this state.

23 2. The United States, acting through the United States
24 department of agriculture, and its officials, shall be held
25 harmless against any liability arising out of the transfer of
26 assets from the agricultural development authority to the Iowa
27 finance authority, or from the Iowa finance authority carrying
28 out the provisions of any agreement relating to the use by
29 this state of the Iowa rural rehabilitation corporation assets
30 under the management of agricultural development authority as
31 contained in the Iowa rural rehabilitation corporation trust
32 liquidation.

33 Sec. 34. EFFECTIVE DATE. This division of this Act takes
34 effect July 1, 2013.

35

DIVISION IV

1 TRANSITIONAL PROVISIONS — REQUIREMENTS OF THE IOWA FINANCE
2 AUTHORITY AND THE AGRICULTURAL DEVELOPMENT AUTHORITY

3 Sec. 35. GENERAL. The Iowa finance authority shall provide
4 for the implementation of this Act according to a schedule
5 approved by the Iowa finance authority's board of directors
6 which is consistent with this Act.

7 Sec. 36. EMERGENCY RULEMAKING. The Iowa finance authority
8 may adopt emergency rules under section 17A.4, subsection 3,
9 and section 17A.5, subsection 2, paragraph "b", to implement
10 the provisions of this Act, and the rules shall be effective
11 July 1, 2013, unless a later date is specified in the rules.
12 Any rules adopted in accordance with this section shall also be
13 published as a notice of intended action as provided in section
14 17A.4.

15 Sec. 37. INTERAUTHORITY COOPERATION. The agricultural
16 development authority shall assist the Iowa finance authority
17 in implementing this Act by providing for an effective
18 transition of powers and duties from one authority to the other
19 authority under chapter 175 and related administrative rules.

20 Sec. 38. EFFECTIVE UPON ENACTMENT. This division of this
21 Act, being deemed of immediate importance, takes effect upon
22 enactment.

23 EXPLANATION

24 GENERAL. This bill provides that the powers and duties
25 of the agricultural development authority are transferred to
26 the Iowa finance authority. The agricultural development
27 authority administers programs under Code chapter 175 to assist
28 farmers, including beginning farmers, to start or expand their
29 operations. The Iowa finance authority administers programs
30 under Code chapter 16 to assist low-or moderate-income families
31 in attaining housing.

32 ADMINISTRATION. The agricultural development authority
33 is currently housed in the department of agriculture and
34 land stewardship. The Iowa finance authority and the
35 agricultural development authority are each headed by a board

1 of directors and each authority is supervised by an executive
2 director. Each authority is required to cooperate with lending
3 institutions in providing for affordable credit; and each may
4 issue bonds and notes in order to finance its programs.

5 OTHER SUBSTANTIVE CHANGES. The bill makes several
6 substantive changes. It provides that the Iowa finance
7 authority board of directors has broad administrative authority
8 to make, interpret and construe its rules, and interpret and
9 construe the laws of this state relating to such programs. It
10 dedicates two full-time equivalent positions to administer
11 programs previously performed by the agricultural development
12 authority. The bill requires that two members of the board be
13 involved in agricultural lending. It eliminates a provision
14 which requires the state auditor to perform an annual audit of
15 the agricultural development authority. Currently, the state
16 auditor may periodically perform audits of the Iowa finance
17 authority.

18 TRANSITIONAL PROVISIONS — GENERAL. The bill includes a
19 number of transitional provisions to assist the Iowa finance
20 authority in accomplishing the transfer and to effectuate the
21 transfer of legal rights and obligations.

22 The transitional provisions relate to the validity of
23 existing rules, regulations, forms, orders, and directives;
24 pending legal actions; the transfer of personnel; and the
25 replacement of items bearing the name of the agricultural
26 development authority. The bill provides for the transfer of
27 interests in real property, tangible personal property, and
28 intangible personal property as well as debts, obligations,
29 or liabilities incurred by the agricultural development
30 authority and any right or benefit obtained by the agricultural
31 development authority (e.g., through outstanding contracts).
32 The bill also provides that two members of the Iowa finance
33 authority's board of directors may serve out their terms
34 before being replaced by persons involved in farming. The
35 bill authorizes the Iowa finance authority to complete

1 the administration of ongoing programs in progress on the
2 effective date of the bill. It specifically provides for the
3 assumption of assets and liabilities of the former Iowa rural
4 rehabilitation corporation that had been administered by the
5 agricultural development authority (Code section 175.28). The
6 bill holds the United States department of agriculture harmless
7 against liability arising from the assumption and transfer of
8 assets.

9 TRANSFER PROVISIONS — IMPLEMENTATION. Finally, the
10 bill authorizes the Iowa finance authority to provide for the
11 implementation of the bill according to a schedule adopted by
12 its board of directors, provides the authority with emergency
13 rulemaking authority, and requires that the two authorities
14 cooperate in implementing the transition.

15 Generally, the bill takes effect on July 1. However,
16 provisions which authorize the Iowa development authority to
17 implement the bill take effect upon enactment.